IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1647 of 2005

Between:

Noor Shareef, S/o Abdullah Shareef,
R/o. H.No. 7-2-1225/CSRT970, Sanath Nagar, Hyderabad.

..... PETITIONER

AND

1 The Secretary Ministry of External Affirs, Govt. of India, New Delhi.
2 The Regional Passport Officer, Secunderabad, Andhra Pradesh.

.....RESPONDENT-PASSPORT AUTHORITYS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or Writs, Order or Orders, direction or directions, particularly one in the nature of "WRIT OF MANDAMUS" and declare the action of the respondent-Passport Authoritys in not considering the application for correction of dated of birth in the passport and not making the change of date of birth in the passport is illegal, arbitrary and against the existing rules and consequently direct the respondent-Passport Authoritys to correct the date of birth as 18-3-1971 instead of 18-3-1967 in petitioner passport No. E902425 and to pass such other orders as are necessary in the interest of justice.

Counsel for the Petitioner: MR.G.BUCHAIAH GOUD

Counsel for the Respondent-Passport Authoritys: Smt R.Rajamma, Additional S.C. for Central Government

The Court made the following:

O R D E R:

Heard the learned counsel for the petitioner and the learned standing counsel for the Central Government appearing for the respondent-Passport Authority-Passport Authority.

It is the case of the petitioner that his actual date of birth is 18-03-1971, but in the passport issued to him by the respondent-Passport Authority in the year 1988, his date of birth was wrongly mentioned as 05-03-1967, and that though he represented to the respondent-Passport Authority to alter his date of birth in the Passport and issue fresh passport, the respondent-Passport Authority refused to entertain the application on the ground that they have no power to make correction of date of birth in the passport. It is further stated that in the meanwhile the period of passport expired and therefore he made an application dated 26-8-2004 together with the requisite fees, for a fresh passport incorporating the correct date of birth. In response to the same, by letter dated 8-11-2004 the third respondent informed the petitioner that he shall furnish a declaration order from the Court regarding correction of his date of birth. Aggrieved by the

said action of the 2nd respondent, this writ petition is filed.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
>
> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
>
> (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As of today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the 2nd respondent ought to have considered the application of the petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Accordingly, the order dated 8-11-2004 issued by the 2nd respondent is set aside and the Writ Petition is disposed of with a direction to the 2nd respondent to consider the request of the petitioner afresh on the basis of his application dated 26-8-2004 for issuance of fresh passport with correct date of birth and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

(G. ROHINI, J)

Date:04-02-2005

ghn

To

1 The Secretary Ministry of External Affairs, Govt. of India, New Delhi.

2 The Regional Passport Officer, Secunderabad, Andhra Pradesh.

3 Two C.D copies.